

FISCAL IMPACT STATEMENT ON BILL NO. **S.2**

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TO:	The Honorable Glenn McConnell, Chairman, Senate Judiciary Committee		
FROM:	Office of State Budget, Budget and Control Board		
ANALYSTS:	Kenneth Brown, Rodney Grizzle, Kate Billing, Tricia Tangney, Allan Kincaid, Beth Campbell		
DATE:	January 18, 2005	SBD:	2005013

AUTHOR:	Senator Leatherman	PRIMARY CODE CITE:	15-32-10
SUBJECT:	South Carolina Economic Development, Citizens, and Small Business Protection Act of 2005		

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

BILL SUMMARY:

This legislation amends the Code of Laws of South Carolina, 1976, by enacting the South Carolina Economic Development, Citizens and Small Business Protection Act of 2005. This legislation, which includes the Non-economic Damage Awards Act of 2005, would limit the amount awarded on punitive damages in a civil court case. The legislation also limits the liability of licensed health care providers under certain circumstances as well as revises portions of the South Carolina Frivolous Civil Proceedings Sanctions Act.

EXPLANATION OF IMPACT:

The Judicial Department, Departments of Insurance, Mental Health and Disabilities and Special Needs indicate that there will be no fiscal impact on the General Fund of the State or on Federal and/or Other Funds.

Department of Health & Human Services (DHHS)

DHHS indicates that any impact on the Department is projected to be minimal.

State Accident Fund

The State Accident Fund indicates that the Bill could have an adverse impact on the claims costs of all workers' compensation insurance carriers. The State Accident Fund covers workers' compensation claims for all state agencies and for many local governments. Limitations on third party liability, such as the limit of \$250,000 on non-economic damages and the elimination of double recoveries, is expected to lead to a moderate increase in claims costs, which would in turn lead to a moderate impact on premiums charged to state agencies. State agencies may pay these increased premiums from General or Federal and/or Other funds.

Worker's Compensation Commission

The Agency has been forwarded a copy of the Bill, but to date, has not submitted impact of the proposed Bill.

Patients Compensation Fund (PCF)

The Agency has been forwarded a copy of the Bill, but to date, has not submitted impact of the proposed Bill.

State Budget and Control Board

A review of this Bill by staff of the State Budget and Control Board has identified several areas, depending upon its interpretation, which could have a significant adverse fiscal impact on state and local governments including school districts.

If Part II, Article 3 is to be interpreted as authorizing recovery of punitive damages against the government in all claims except those cognizable only pursuant to the Tort Claims Act, then state and local governments, special purpose and school districts could incur an unlimited liability that is unfunded and uninsurable.

Part V, Sections 11 and 12 designates and treats all licensed healthcare providers, who are being paid by Medicaid or any other publicly funded healthcare program, as government employees for the purposes of tort liability. Therefore, according to the Tort Claims Act the government agency paying healthcare providers for services would become liable for its employees. According to the Insurance Reserve Fund, the cost of insuring the additional risks would be in excess of fifty million dollars per year paid by the agencies funding the healthcare services.

LOCAL GOVERNMENT IMPACT:

None.

SPECIAL NOTES:

None.

Approved by:

A handwritten signature in black ink, appearing to read "Don Addy". The signature is fluid and cursive, with the first name "Don" and last name "Addy" clearly distinguishable.

Don Addy
Assistant Director, Office of State Budget